

JS 44 (Rev. 12/07, NJ 5/08)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

MARIE PEZAK

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire  
 Kimmel & Silverman, P.C.  
 30 E. Butler Pike  
 Ambler, PA 19002  
 (215) 540-8888

**DEFENDANTS**

MIRAMED REVENUE GROUP, LLC

County of Residence of First Listed Defendant \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)   |

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)  
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	Citizen of Another State	PTF	DEF
<input type="checkbox"/>	<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 4	<input type="checkbox"/> 4

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/>	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 820 Copyrights	<input checked="" type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/>	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 190 Other Contract			<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 891 Agricultural Acts
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<b>Habeas Corpus:</b>	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/>	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<b>IMMIGRATION</b>	<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 462 Naturalization Application	
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	
			<b>FEDERAL TAX SUITS</b>	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN** (Place an "X" in One Box Only)

- |   |   |  |   |  |   |  |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|---|---|--|---|--|---|--|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1692

**VI. CAUSE OF ACTION**Brief description of cause:  
Fair Debt Collection Practices Act**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

06/25/2013

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**CASE MANAGEMENT TRACK DESIGNATION FORM**

MARIE PEZAK

: CIVIL ACTION

v.

: NO.

MIRAMED REVENUE GROUP, LLC

:

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

06/25/2013

Date

Craig Thor Kimmel

Attorney-at-law

Plaintiff, Marie Pezak

Attorney for

215-540-8888

Telephone

877-788-2864

FAX Number

kimmel@creditlaw.com

E-Mail Address

## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1832 Bridgetown Pike, Feasterville, PA 19053

Address of Defendant: 991 Oak Creek Dr., Lombard, IL 60148

Place of Accident, Incident or Transaction: \_\_\_\_\_

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities?

Yes  No

*RELATED CASE, IF ANY:*

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes  No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes  No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes  No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes  No

CIVIL: (Place  in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1.  Indemnity Contract, Marine Contract, and All Other Contracts
2.  FELA
3.  Jones Act-Personal Injury
4.  Antitrust
5.  Patent
6.  Labor-Management Relations
7.  Civil Rights
8.  Habeas Corpus
9.  Securities Act(s) Cases
10.  Social Security Review Cases
11.  All other Federal Question Cases

(Please specify) 15 U.S.C. § 1692

B. *Diversity Jurisdiction Cases:*

1.  Insurance Contract and Other Contracts
2.  Airplane Personal Injury
3.  Assault, Defamation
4.  Marine Personal Injury
5.  Motor Vehicle Personal Injury
6.  Other Personal Injury (Please specify) \_\_\_\_\_
7.  Products Liability
8.  Products Liability — Asbestos
9.  All other Diversity Cases

(Please specify) \_\_\_\_\_

**ARBITRATION CERTIFICATION**

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

- Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- Relief other than monetary damages is sought.

DATE: 06/25/2013

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 06/25/2013

Attorney-at-Law

57100

Attorney I.D.#

**UNITED STATES DISTRICT COURT  
FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA**

MARIE PEZAK,  
Plaintiff  
v.  
MIRAMED REVENUE GROUP,  
LLC,  
Defendant )  
 )  
 )  
 )  
 ) Case No.:  
 )  
 )  
 ) COMPLAINT AND DEMAND FOR  
 ) JURY TRIAL  
 )  
 ) (Unlawful Debt Collection Practices)  
)

## **COMPLAINT**

MARIE PEZAK (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against MIRAMED REVENUE GROUP, LLC (“Defendant”):

## INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

## JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. §1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business in the Commonwealth of Pennsylvania; therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Feasterville, Pennsylvania  
19053.

6. Plaintiff is a person granted a cause of action under the FDCPA. See 15 U.S.C. § 1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

7. Defendant is a debt collection company with its principal office located at 991 Oak Creek Drive, Lombard, Illinois 60148.

8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §1692a(6), and repeatedly contacted Plaintiff in its attempts to collect a consumer debt.

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

## **FACTUAL ALLEGATIONS**

10. At all pertinent times hereto, Defendant was hired to collect a consumer debt and contacted Plaintiff in its attempts to collect that debt.

1       11. Upon information and belief, the debt that Defendant was attempting  
2 to collect arose out of transactions that were primarily for personal, family, or  
3 household purposes.  
4

5       12. Plaintiff does not owe the debt that Defendant was attempting to  
6 collect.  
7

8       13. Beginning in May 2013, and continuing through June 2013,  
9 Defendant repeatedly and continuously called Plaintiff on her home telephone in  
10 an attempt to collect a consumer debt.  
11

12       14. Defendant called Plaintiff at least once a day. For example,  
13 Defendant called Plaintiff once on June 3, 2013; once on June 4, 2013; and once  
14 on June 5, 2013.  
15

16       15. Defendant attempted in those calls to collect a debt of an individual  
17 with the name of “Kelly M. Giordano.”  
18

19       16. Plaintiff’s is not “Kelly M. Giordano” and an individual by that  
20 name does not reside with her.  
21

22       17. On June 4, 2013, Plaintiff spoke with several of Defendant’s  
23 collectors to inform them that she is not “Kelly M. Giordano,” no one by that last  
24 name lives at the called number, and to stop calling her.  
25

26       18. Defendant deceptively claimed it would remove her telephone  
27 number from its database; however, Defendant did not do so.  
28

1       19. Further, Defendant failed to investigate the information and/or  
2 update its records to avoid the further harassment of Plaintiff.  
3

4       20. Moreover, Defendant did not possess any information to contradict  
5 Plaintiff's statements.

6       21. Rather, Defendant persisted in calling Plaintiff about a debt of a  
7 person named "Kelly M. Giordano."

8       22. Specifically, Defendant called Plaintiff on June 5, 2013; June 7,  
9 2013; and June 8, 2013.

10      23. In addition to repeatedly calling, Defendant would leave messages  
11 on Plaintiff's home answering machine stating that, "This is an important  
12 message for Kelly M. Giordano. If you are Kelly M. Giordano, please press  
13 1...this is MiraMed Revenue Group...please reference id code no. 11089684 and  
14 call (866) 910-3116" (*sic*).  
15

16      24. Plaintiff received approximately six (6) or seven (7) voicemail  
17 messages in addition to the daily calls.

18      25. Defendant called Plaintiff on a repetitive and continuous basis with  
19 the intent of harassing, knowing Plaintiff was not the correct person it sought.

20      26. By continuously calling over a debt she did not owe, and failing to  
21 update its records to avoid the further harassment of Plaintiff, Defendant engaged  
22 in conduct which as the natural consequences of harassing the recipient.  
23

27. Upon information and belief, information was readily available to Defendant, and/or was available in the public domain, that the number it was calling belonged to Plaintiff and/or was associated with Plaintiff's home address.

28. Defendant knew, or should have known, that it was calling Plaintiff in error in its attempts to collect the debt of another person, but continued to do so, with the intent to disrupt Plaintiff's solitude solely for the purpose of annoying, abusing and harassing Plaintiff.

29. The repetitive calls to Plaintiff were harassing, aggravating and highly annoying.

30. Plaintiff has spent time and effort dealing with these calls and trying to stop the collection calls to her for another person.

**DEFENDANT VIOLATED THE  
FAIR DEBT COLLECTION PRACTICES ACT**

## COUNT I

31. Defendant's conduct, detailed in the preceding paragraphs, violated  
15 U.S.C. § 1692b(3).

- a. Section 1692b(3) of the FDCPA prohibits a debt collector from communicating with any person other than a consumer more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such

1 person is erroneous or incomplete and that such person now has  
2 correct or complete location information.

3 b. Here, Defendant violated §1692b(3) of the FDCPA by  
4 communicating with Plaintiff more than once about another  
5 person's debt, despite having been notified that it was calling the  
6 wrong person.  
7

8 **COUNT II**  
9

10 32. Defendant's conduct, as detailed in the preceding paragraphs,  
11 violated 15 U.S.C. §1692c(a)(1).

12 a. A debt collector violates §1692c(a)(1) of the FDCPA by  
13 communicating with the consumer at any unusual time or place or  
14 a time or place known or which should be known to be  
15 inconvenient to the consumer, including communication between  
16 a debt collector and consumer prior to 8:00 a.m. or after 9:00 p.m.  
17

18 b. Here, Defendant violated §1692c(a)(1) of the FDCPA by placing  
19 numerous collection calls to Plaintiff at her home residence about  
20 another individual's debt, which was an inconvenient place for  
21 Plaintiff to receive collection calls for another individual.  
22

### COUNT III

33. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §1692d.

- a. A debt collector violates §1692d of the FDCPA by engaging in conduct of the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
  - b. Here, Defendant violated §1692d of the FDCPA by calling Plaintiff's repeatedly and continuously about another person's debt with the intent to annoy, abuse, and harass Plaintiff into paying the debt.

**COUNT IV**

34. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §1692f.

- a. A debt collector violates §1692f of the FDCPA by using unfair or unconscionable means to collect or attempt to collect any debt.
  - a. Here, Defendant violated §1692f of the FDCPA by failing to update its records to stop the collection calls to Plaintiff.

WHEREFORE, Plaintiff, MARIE PEZAK, respectfully prays for a judgment as follows:

- 1 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1)  
2 and Pennsylvania common law;
- 3 b. Statutory damages of \$1,000.00 for the violation of the FDCPA  
4 pursuant to 15 U.S.C. § 1692k(a)(2)(A);  
5 c. All reasonable attorneys' fees, witness fees, court costs and other  
6 litigation costs incurred by Plaintiff pursuant to 15 U.S.C. §  
7 1693k(a)(3); and  
8 d. Any other relief deemed appropriate by this Honorable Court.
- 9

11 **DEMAND FOR JURY TRIAL**

12 PLEASE TAKE NOTICE that Plaintiff, MARIE PEZAK, demands a jury  
13 trial in this case.  
14

15 RESPECTFULLY SUBMITTED,

16 DATED: 06-25-13

KIMMEL & SILVERMAN, P.C.

17 By: \_\_\_\_\_  
18 Craig Thor Kimmel  
19 Attorney ID # 57100  
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